

REMARKS/ARGUMENTS

Status of the Claims

Claims 39 to 53 were previously pending and presented for examination. Claims 40 to 45 and 48 to 53 have been amended. Claims 46 and 47 are canceled without prejudice. Claims 54 and 55 are newly presented. After entry of these amendments, claims 40 to 45 and 48 to 55 will be pending.

Claims 41 to 53 stand rejected as allegedly indefinite with respect to their recited claim dependencies.

Claims 50 to 52 stand rejected as allegedly indefinite as to the sites of amidation or acetylation.

Claims 40, 44, 45 and 48 to 53 stand rejected on the ground of nonstatutory obviousness-type double patenting over claims 13 to 24 of U.S. Patent No. 6,008,378.

Claims 40 to 46, 48 and 49 stand rejected as being anticipated by Berger et al., J. Am. Chem. Soc. 78:4483-4488 (1956).

Claims 40, 44 to 46, 48, and 49 stand rejected as being anticipated by Duflot et al., U.S. Patent No. 4,499,080.

The Applicants respectfully respond to each of the rejections below.

Support for the Amendments to the Claims

Claim 1 was amended to set forth an antibody covalently attached to a target polypeptide. Support for this subject matter can be found in the specification at page 18, lines 17 to 20.

Claim 40 was further amended to set forth that the target polypeptide comprises four cysteines which together are capable of specifically reacting with a single biarsenical molecule. Support for this subject matter is found in the previous version of the claim which recited at least one cysteine residue, at p. 5, line 21, and in Figure 3.

Claims 41 to 45 and 48 to 52 were amended to depend from claim 40 instead of canceled claim 1.

Claims 41 to 45 and 48 to 53 were amended to recite "the antibody of claim" in place of "the polypeptide of claim." These amendments match changes in the antecedent basis provided by amended claim 40.

Claims 41 to 45 and 48 to 53 were amended to set forth "the target polypeptide" in place of "the target amino acid sequence." These amendments match changes in the antecedent basis provided by amended claim 40.

Claims 50 to 52 were amended to specify that the target polypeptide is amidated or acetylated as the case may be. Support for this subject matter is found in the previous version of these claims and also at page 19, lines 5 to 10.

New claim 54 sets forth a fusion polypeptide. Support for this subject matter can be found *inter alia* at page 22, lines 7 to 8.

New claim 55 recites "consisting essentially of." Support for the recited subject matter is as set forth above for claim 40.

Response to the Indefiniteness Rejections.

Claims 41 to 53 have been amended to correct their dependencies. Applicants thank the Examiner for catching the error.

Claims 50 to 52 have been amended to more clearly set forth the sites to be amidated or acetylated.

Accordingly, the Applicants respectfully request that the above grounds for rejection be reconsidered and withdrawn.

Response to the Rejection for Alleged Double Patenting of the Non-Obviousness type over U.S. Patent No. 6,008,378.

Without acquiescing on the merits, the Applicants have amended the claims to set forth that an antibody is covalently attached to the target polypeptide.

Accordingly, the Applicants respectfully request that the above rejection be reconsidered and withdrawn.

In this regard, the Applicants note:

- 1) U.S. Patent No. 6,451,569 to Tsien et al. recites subject matter wherein the carrier polypeptide is an antibody (*see*, claim 18); and
- 2) U.S. Patent No. 6,054,271 to Tsien et al. recites subject matter wherein the carrier polypeptide is an antibody (*see*, claims 9 and 19).

In the event the Examiner deems the claims would be in condition for allowance except for a bar under the judicially created doctrine of obviousness-type double patenting as to either or both these 6,054,271 and 6,451,569 patents, the Applicants will provide a suitable terminal disclaimer.

Response to the Rejection of Claims 40 to 46, 48 and 49 as Allegedly Anticipated by Berger et al., J. Am. Chem. Soc. 78:4483-4488 (1956).

Canceled claim 47, drawn to subject matter wherein the carrier polypeptide is an antibody, was not rejected over the Berger et al. reference. Without acquiescing on the merits and in order to expedite the prosecution of the instant application, the Applicants amended the base claim to set forth an antibody covalently attached to the target polypeptide.

As Berger et al. do not disclose or suggest these antibodies, the Applicants respectfully request that the above grounds for rejection be reconsidered and withdrawn.

Response to the Rejection of Claims 40, 44 to 46, 48, and 49 as Allegedly Anticipated by U.S. Patent No. 4,499,080.

Claim 47, drawn to subject matter wherein the carrier polypeptide is an antibody, was not rejected over the '080 patent. Without acquiescing on the merits and in order to expedite the prosecution of the instant application, the Applicants amended the base claim to set forth an antibody is covalently attached to the target polypeptide.

As the '080 patent does not disclose or suggest the claimed antibodies, the Applicants respectfully request that the above grounds for rejection be reconsidered and withdrawn.

Appl. No. 10/772,164
Amdt. dated May 3, 2006
Amendment under 37 CFR 1.116 Expedited Procedure
Examining Group 1654

PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



Frank J. Mycroft
Reg. No. 46,946

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 925-472-5000
Fax: 415-576-0300
Attachments
FJM:kar
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